

CHAPTER NO. 872

SENATE BILL NO. 3360

By Herron, Tracy, Ketron

Substituted for: House Bill No. 3717

By Winningham , Moore, Pruitt, Marrero, Ulysses Jones, Mr. Speaker Naifeh, Lois DeBerry, Rowe, Sherry Jones, Bo Watson

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 24, Part 1, relative to athletic trainers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-24-101(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3) "Board" means the board of athletic trainers.

SECTION 2. Tennessee Code Annotated, Section 63-24-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) There is hereby established the board of athletic trainers to consist of five (5) members. Of the five (5) members:

(1) Three (3) members shall be athletic trainers licensed in the state;

(2) One (1) member shall be a physician licensed in the state; and

(3) One (1) member shall be a representative of the public who is not an athletic trainer and is not commercially or professionally associated with the health care industry.

(b) Members of the board shall be appointed by the governor. The Tennessee athletic trainers society and the Tennessee medical association may each supply a list to the governor of at least three (3) nominees for each appointment or vacancy on the board in their respective categories. The governor may make an appointment from such lists.

(1) (A) Each licensed athletic trainer appointed to serve on the board shall:

(i) Reside in the state for at least five (5) years immediately preceding appointment and at all times thereafter;

(ii) Be currently licensed in good standing as a licensed athletic trainer in this state;

(iii) Be currently engaged in the practice of athletic training as a licensed athletic trainer; and

(iv) Have been licensed as an athletic trainer in the state for no fewer than five (5) years.

(B) Each physician appointed to serve on the board shall:

(i) Reside in the state for at least five (5) years immediately preceding appointment and at all times thereafter;

(ii) Be currently licensed in good standing in the state; and

(iii) Have been licensed as a physician in the state for no fewer than five (5) years.

(C) The representative of the public appointed to serve on the board shall:

(i) Reside in the state for at least five (5) years immediately preceding appointment and at all times thereafter;

(ii) Have no direct or indirect financial interest in health care services;

(iii) Have never been, or while serving on the board be, an athletic trainer or enrolled in any health care educational program; and

(iv) Not be a member or employee of any board of control of any public or private health care group or organization.

(2) Members of the board shall serve one (1) four-year term and may be reappointed. Any board member may be removed by the governor after notice and a hearing for incompetence, neglect of duty, malfeasance in office or moral turpitude. Vacancies on the board created by the expiration of a term of office or for any other reason shall be filled by the governor in the same manner as the original appointment. Appointed members shall serve until their replacement has been appointed and has agreed to serve. In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is a member of a racial minority.

(c) The chair and vice chair of the board shall be chosen from one (1) of the three (3) athletic trainer members and elected by the board. The chair shall preside over all meetings and business of the board. The vice chair shall preside over the meetings and business of the board in the absence of the chair and shall be responsible for signing the approved minutes of the board. The length of the terms of the elected officers shall be determined by rules duly promulgated by the board.

(d) The board, for administrative purposes, shall meet at least annually and at such other times as necessary to conduct the business of the board at the call of the

chair. For purposes of conducting board business a majority of the members of the board shall constitute a quorum.

(e) The members of the board shall be entitled to a per diem of one hundred dollars (\$100.00) for each day's service in attending meetings of the board, and other official business of the board, and necessary expenses for traveling and subsistence while attending such meetings. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the attorney general and reporter.

(f) The board shall receive its administrative, legal and investigative support from the division of health related boards.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 24, is amended by adding the following new language as a new section:

§ 63-24-111

(a) The board has the power and duty to:

(1) Promulgate in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, all rules that are reasonably necessary for the performance of its duties;

(2) License athletic trainers in compliance with the provisions of this chapter;

(3) Prescribe application forms for licensure and conduct or select a licensure examination and to establish the prerequisites, if any, for admission to the examination. The board is authorized to enter into a contract or agreement with an examination service and/or select an intermediary between the board and the examination service to process applicants for the examination;

(4) Establish such fees in addition to those enumerated in Section 63-24-106 that are necessary for the operation of the board in accordance with Section 4-3-1011;

(5) Establish guidelines and standards for athletic trainers in the state that are not inconsistent with the other provisions of this chapter, and the grounds upon which, in addition to those causes enumerated in Section 63-24-107, disciplinary action may be taken; and

(6) Establish all requirements for mandatory continuing education as a condition of continued licensure including a mechanism for waiver of the requirements in cases of undue hardship.

(7) Issue advisory private letter rulings to any affected "licensed practitioner" or license holder who makes such a request regarding any matters within the board's primary jurisdiction. Such private letter ruling shall only affect the person making such inquiry, and shall have no precedential value for any

other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to the declaratory order provisions of § 4-5-223.

(b) The board shall pay all money received by it into the state treasury and the Commissioner of Finance and Administration shall make such allotments out of the general fund as the commissioner may deem proper for the necessary and proper expenses of the board, and no expenditure shall be made by the board unless and until such allotment has been made by the commissioner. Such allotment shall be disbursed under the general budgetary laws of the State of Tennessee.

SECTION 4. Tennessee Code Annotated, Section 63-24-107, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The board has the power and duty to:

(1) Deny, restrict or condition a license to any applicant who applies for the same through reciprocity or otherwise;

(2) Permanently or temporarily withhold issuance of a license;

(3) Suspend, limit or restrict a previously issued license for such time and in such manner as the board may determine;

(4) Reprimand, suspend, revoke or take such other disciplinary action in relation to an applicant or license holder as the board in its discretion may deem proper; or

(5) Permanently revoke a license.

(b) The grounds upon which the board shall exercise such power include, but are not limited to, circumstances wherein the person has:

(1) Violated standards of practice as determined by the board;

(2) Practiced athletic training for compensation without holding an active license under this chapter;

(3) Used or attempted to use an athletic trainer license that has been suspended or revoked;

(4) Obtained or attempted to obtain an athletic trainer license by misleading statements, fraud or deceit or knowing misrepresentation;

(5) Used the title "athletic trainer" without being licensed under this chapter; or

(6) Violated or conspired to violate the provisions of this chapter or rules and regulations promulgated pursuant to this chapter.

SECTION 5. Tennessee Code Annotated, Section 63-24-108, is amended by deleting the last sentence of subsection (a) in its entirety and by substituting instead the language

“Disciplinary proceedings shall be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5.”

AND IS FURTHER AMENDED by adding the following as a new subsection (c):

(c) (1) Any person who practices in this state without having first complied with the provisions of this chapter commits a class B misdemeanor for each instance of such practice. Each day any person practices without first obtaining a valid license or renewing a license constitutes a separate offense.

(2) The board, in addition to the powers and duties expressed in this chapter with respect to the grant, denial and discipline of licensure is empowered to petition any circuit or chancery court having jurisdiction of any person within this state, who is practicing without a license or to whom a license has been denied, or whose license has been suspended or revoked by action of the board, to enjoin such person from continuing practice within this state. Jurisdiction is conferred upon the circuit and chancery courts of this state to hear and determine all such causes as equity causes and exercise full and complete jurisdiction in such injunctive proceedings, but nothing in this section shall be construed as conferring criminal jurisdiction upon any court not now possessing such criminal jurisdiction, nor shall any such court, as an incident to the injunctive proceedings herein authorized, have the power to assess the criminal penalties.

SECTION 6. Tennessee Code Annotated, Section 63-24-110, is amended by adding the following as new, appropriately designated subsections:

() The board shall have the authority to assess civil penalties commensurate with those assessable under Section 63-1-134 against persons who have knowingly employed, contracted for or otherwise utilized unlicensed persons in the practice of athletic training with or without compensation.

() Nothing in this chapter shall be construed as applying to physicians duly licensed under this chapter who employ or contract for services provided by persons in the physician's office assisting in the care of patients and rendered under the supervision, control and responsibility of the licensed physician.

SECTION 7. The rules currently governing the practice of athletic trainers to the extent they are consistent with this act shall remain in effect until such time as the board may promulgate their replacements. The duties of the board of medical examiners that are contained in the currently existing rules shall be assumed by the board of athletic trainers created by this act.

SECTION 8. This act shall take effect July 1, 2006 for the purposes of appointing board members and for all other purposes shall become effective on October 1, 2006, the public welfare requiring it.

Passed: May 23, 2006


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of June 2006


PHIL BREDESEN, GOVERNOR